EDITOR'S NOTE:

THE FOLLOWING PAGES WERE POOR HARD COPY AT THE TIME OF FILMING. IF AND WHEN A BETTER COPY CAN BE OBTAINED, A NEW FICHE WILL BE ISSUED.

90-1159

Supreme Court, U.S.
FILED
JAN 14 1991
JOSEPH F. SPANIOL, JR.
CLERK

No. ----------

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1991

RAYMOND J. BLY - PETITIONER

VS.

RICHARD KINLEIN, Esq. RESPONDENT

PETITION FOR WRIT OF CERTIORARI

TO THE MARYLAND COURT OF APPEALS

ANNAPOLIS, MARYLAND

PETITION FOR WRIT OF CERTIORARI

RAYMOND J. BLY

8087 WASHINGTON BLVD.

JESSUP, MD. 20794

(301) 799-3516

1550PM

QUESTIONS PRESENTED

1. Are Mr. and Mrs. Bly two separate and distinct emtities under the law?

2. Do Maryland courts have to conform to Federal pro se standards?

3. Do Maryland courts discriminate unfairly against pro se litigants who do not possess a degree in Law?

4. Do Maryland courts restrict themselves to legal mumbo-jumbo that only attorneys could understand and know to use against a citizen's Constitutional Rights?

5. Do Maryland courts have to conform to Federal standards for pro se litigants?

6. Does restriction of the court system in Maryland to only attorneys meet constitutional requirements?

7. Is dismissing a claim against a

party Constitutional if this party uses some legal terminology and some common English to present the claim in the complaint filed Constitutional?

TABLE OF CONTENTS

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE UNITED STATES

OPINIONS BELOW 6

JURISDICTION 6

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED 7

STATEMENT OF THE CASE 7

REASONS FOR GRANTING THE WRIT . . 14

CONCLUSION 14

INDEX TO APPENDICES

Each one of these Appendices is the exact copy and retyped for the purpose of reduction.

Appendix A. The unreported opinion of the Court of Appeals of Maryland #16

Appendix B. The unreported opinion of the Court of Special Appeals of Maryland #16

Appendix C. Ruling of the Circuit Court in Howard County, Maryland #32

Appendix D. Transcript of the Circuit

Court Hearings on the case in Howard County, Maryland #35

Appendix E. Transcript of Octoer 1st 1986 Hearing which caused the lawsuit #57

Appendix F. Appellant's brief to the court of Special Appeals of Maryland # 85

Appendix G. Amended complaint in the Circuit Court for Howard County # 135

No. _____

IN THE SUPREME COURT

OF THE

UNITED STATES OF AMERICA

October Term, 1990

RAYMOND J. BLY, TIENG BLY, Petitioner

vs.

RICHARD KINLEIN Esq, Respondent

PETITION FOR WRIT OF CERTIORARI

TO THE SUPREME COURT OF THE

UNITED STATES OF AMERICA

Petitioners, RayMOND J. Bly, and TIENG D. BLY respectfully prays that a writ of certiorari issue to review the judgment and opinion of the Maryland Court of Appeals be reversed because said

opinions of the lower courts were prejudicial against pro se litigants, the use of common English in complaints and not separating Mr. and Mrs. Bly as distinct entities under the law.

OPINIONS BELOW

The opinion of the Court of Appeals of Maryland is unreported but denied criteria and is Appendix A. The Court of Special Appeals of Maryland is Appendix B and is unreported. The ruling of the Circuit Court in Howard County, Maryland is Appendix C.

JURISDICTION

First, the Circuit Court for Howard County, Maryland dismissed my complaint for failure to state a claim. Then, the Court of Special Appeals affirmed that decision in an unreported opinion. Then, the Court of Appeals of Maryland denied my request for review by Critiorari saying it was not in the public interest

and issued an order dated December 26th, 1990.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment 5 and Amendment 14 of the United States Constitution.

STATEMENT OF THE CASE

The Petitioners, Raymond and Tieng Bly, filed this case against Mrs. Bly's attorney because of his misrepresentation of Mr. Bly against her implicit orders. After becoming thoroughly disgusted with an attorney Mr. Bly had previously hired from the yellow pages - who wanted Mr. Bly to plea bargain - Mrs. Bly located a new attorney and hired him and demanded of Mr. Bly that he let this attorney represent him. This attorney assured Mrs. Bly that he would represent her husband as innocent and that all the charges against him were false. Mrs. Bly hired him and personally paid him for

this service. The Respondent assured Mr. Bly also that he would plead him as innocent. This was not true as you'll see in Appendix E.

Upon filing this complaint, using only common English, Mr. Bly found a book by Gilbert, Gilbert, and Gilbert titled The Maryland Tort Law Handbook printed by the Michie Co. in Virginia. We amended our complaint and tried in this to follow this Rules book on what we had to show and how to correctly say it using legal terminology - which we still do not fully comprehend and understand. The court let this case go on for almost a year and a half and discovery take place and 3 Motions to Dismiss being filed by the Respondent. The third Motion to dismiss was granted after a year and a half. This court has a great deal of prejudice against Mr. Bly and helped to conspire to railroad Mr. Bly in his criminal case and

in all other cases filed related to this one. They stated that I had failed to state a claim in legal terminology as the reason for dismissal. We appealed it to the Court of Special Appeals because of a Congressional Act and a Supreme Court Ruling and Federal Court Statutes to open all courts in this country back to the common man - where the common man would once again have legal access to our courts without an attorney and without special legal knowledge and training. The Court of Special Appeals stated, it was time that Maryland conformed to Federal pro se standards but since Maryland was controlled by lawyers, they doubted it would happen any time soon and denied by appeal.

We then appealed to the Court of Appeals of Maryland on a Certiorari which was denied outright without giving legal reasons for their action. See Appendix

B.

The Respondent will, of course, say I'm a convicted child-abuser which is what he keeps bringing up to get this lawsuit dismissed and to bias the court. Being a child-abuser in the State of Maryland, the court has ruled that it cannot be used as an impeaching tool to judge your veracity, honesty or truthfulness - so why are the Maryland courts allowed to use this illegal yardstick? Mr. Bly's criminal conviction is - at the present time - in the court of special appeals because when the identity of the alleged victim of the crime was found to be an illegal alien who had just arrived in the U.S. several months before charging Mr. Bly with this offense, documentation proved that she had lied to get permission to be admitted into the U.S. and was posing as Mrs. Bly's natural-born daughter which DNA

tests subsequently proved otherwise. As the Circuit Court judge of Maryland stated "It was the same person who lived in your home that accused you of abuse so we don't really care who she is!". They neglect to see to be charged with child-abuse at the time, the victim must be under 18 years of age. If she lied about her identity and her parentage, she most likely lied also about her age. My step-daughter would have been over 15 which is fully developed female and could not be told from a 22-year old in ~~Amerisa's~~ eyes because Vietnamese woman are so tiny and people have thought that my wife who is actually 48 years old was only 25 or 30 years old. When she was in the hospital at the age of 34, having our baby, the nurses asked her where her Mommy and Daddy were because they thought she was a minor. This should answer the respondent's accusation clearly regarding

my arrest and conviction of child-abuse.

Another thing that each court has failed to recognize and is very central to my case is that I and my wife are totally 2 distinct persons. If I break the law, they are not going to arrest my wife for it and vice versa. If I have bad credit, they won't snatch my wife's credit cards away and vice versa. So why does each and every court consider me Mr. Bly, the Respondent, Mr. Kinlein's client and only client when Mr. Bly was only a 3rd Party recipient of legal aid that was contracted for and paid for by Mrs. Bly? Mrs. Bly told her wishes very clearly to Mr. Kinlein that her husband was innocent and that her relatives and step-daughter were lying and to represent her husband as innocent of all charges. The State attorney's guidelines of the bar association state that an attorney can plead his client insane without that

individual's permission. But Mr. Bly was not his client. Mrs. Bly was. Furthermore, when Mr. Kinlein asked Mrs. Bly about Mr. Bly's mental state of mind, she told him of 2 psychiatrists that had counseled with Mr. Bly on many occasions regarding this case and could tell Mr. Kinlein anything he needed to know about Mr. Bly's mental state of health. Mr. Bly even signed permission for Mr. Kinlein, the Respondent, to talk with these two doctors or anyone else involved in the case. Mr. Kinlein refused and acted as judge and jury and told the court Mr. Bly was suffering from post-traumatic stress from Vietnam service where he was a drug addict and baby killer - both of which are completely false. During interviews with Mr and Mrs Bly, when Mr. Bly was asked about his Vietnam tour of duty, he told Mr. Kinlein that he was a truck driver

who never once fired his gun and had only a beautiful memory of Vietnam where he met his wife of 21 years.

CONCLUSION

For the above-cited reasons a writ of certiorari should be issued to review the judgments and opinions of the lower court of Maryland as being unconstitutional and denying citizens access to the court system without a legal degree. We hope and pray that this highest honorable court grants our certiorari in the name of justice and remand this case back down to the Circuit Court in Howard County Maryland for trial on the merits. That this honorable court make it a published opinion where Maryland would have to conform to Federal pro se standards in reviewing cases and conforming their courts to common English for pro se litigants such as is practised in the Federal Courts.

DATED: January 13, 1991.

Respectfully Submitted

RAYMOND J. BLY

TIENG D. BLY

Ø

RAYMOND J. BLY In the

v. Court of Appeals

of Maryland

v.

Petition Docket No.

405

RICHARD KINLEIN September 1990

(No. 1600, September

Term, 1989

Court of Special

Appeals)

ORDER

Upon consideration of the petition for a writ of certiorari to the Court of Special Appeals and the answer filed thereto, in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the petition be, and it is hereby, denied as there has been no

showing that review by certiorari is desirable and in the public interest.

/s/ Robert C. Murphy

Chief Judge

Date: December 26, 1990

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1600

September Term, 1989

RAYMOND J. BLY

vs.

RICHARD J. KINLEIN

Wilner

Bishop

Bloom,

JJ.

PER CURIAM

Filed: Mary 25, 1990

Raymond Bly, his wife, and his children appeal from a judgment of the Circuit Court for Howard County dismissing their amended complaint against appellee, Richard Kinlein. Finding no error, we shall affirm.

The initial complaint and the amended complaint were filed pro se by Mr. Bly, who is not a lawyer. The amended complaint contains nine counts, all of which stem from Mr. Bly's dissatisfaction with the manner in which Mr. Kinlein, a lawyer, had represented him in an earlier criminal proceeding.

Piecing together the information contained in the amended complaint, it appears that in March 1986, Mr. Bly was arrested and charged with child abuse and various sexual offenses. Eventually, either he or his wife hired Mr. Kinlein to represent him. Kinlein, according to the complaint, gave Bly assurances that

he could win an acquittal, but at a court hearing in October 1986, he entered a plea of not criminally responsible, causing Mr. Bly to be committed to a hospital for evaluation. The announcement of that decision by the court, based on the plea entered by Mr. Kinlein, apparently touched off a protect in court by Mr. Bly, his wife, and one or more of his children, leading the sheriff's deputies to restrain them in some manner. Either on the day of the hearing or upon his release from the hospital, Mr. Bly discharged Kinlein and ultimately filed this suit against him. This background emerges from the first nine pages of the amended complaint. The specific causes of action are then stated as follows:

" COUNT 1

(Assault and battery)

15. By not preparing a defense or questioning witnesses as alleged herein. By putting Mr. Bly in jail By lyBing to the Bly family many times saying he was going to defend Mr. Bly with ajury trial as alleged herein.

By yelling at Mr. Bly in his office and breaking down not only Mr. Bly's mental health but also the Bly's family mental health.

COUNT 2

(Fraud and Embezzlement)

By taking of money for a service and not doing the service but does the opposite as alleged herein. By telling the Blys many times that he would defend Mr. Bly each time he received a payment of his bill.

COUNT 3

(Malpractice)

By not looking into or talk to defense witnesses or preparing a just defense that the Blys had asked for and he stated he would be for the Blys as alleged herein.

COUNT 4

(Unprofessional conduct)

By not following the code of pro resp or cannon on how to defend a defendant in a criminal case as alleged herein.

COUNT 5

(Conflict of Interest)

By not revealing his relationship with the judge or other county officers that the Blys had accused of crimes against them as alleged herein.

COUNT 6

(Violation of Plaintiffs right of liberty, privacy, and family integrity)

By Having Mr. Bly state in court something that could convince the court of another crime. By having Mr Bly put

in jail against the Bly family's will. By telling the public in court that the Bly family is sick by trying to destroy the Bly family's marriage as alleged herein.

COUNT 7

(Intense Infliction upon plaintiffs of severe emotional distress)

By listening to a sister of Mr. Bly of his mental state instead of conferring with doctors or Mr. Bly's minister, by passing a medical judgment on Mr. Bly without a license as a doctor, and by doing so, Mr. Kinlein did, in fact, cause all the plaintiffs great emotional diestress as alleged herein.

COUNT 8

(Disclosing confidential information)

By putting Mr. Bly on the stand, abusing him and putting leading questions to him to make him confess. He did make Mr.

confess to one item that was bad, because that is the only thing Mr. Bly had done and he was not charged with it and the State didn't know of it as alleged herein.

COUNT 9

(Breach of contract)

By not-forfilling the contract of defense that both the defendants had stated for and what Mrs. Bly had hired him for.

D. Relief prayed for all counts."

On motion by Kinlein, the court dismissed this complaint, finding that "each count is deficient, in that it either fails to allege a necessary element of the cause of action alleged or fails to set forth facts sufficient to give rise to a cognizable cause of action.

Aside from essentially repeating in his brief much of the material contained in the first nine pages of his complaint,

Mr Bly does not tell us how or why the court's conclusions were wrong. Indeed, they were not wrong

Count 1 attempts to charge assault and battery. As noted, it is based on allegations that Kinlein (1) failed to prepare a defense for Bly, (2) lied to the Bly family, and (3) yelled at Mr. Bly. None of those things, even if true, constitute assault and battery against Bly or his family. There is no averment of an offensive touching or the apprehension of such a touching on the part of Kinlein. The only offensive touching, or threat thereof, was by the sheriff's deputies in an effort to quell the disturbance in court.

Count 2, captioned Fraud and Embezzlement, complains that Kinlein took money for a service that he then did not perform. The required elements of the tort of civil fraud are set forth in B.N.

v. K.K., 312 Md. 135 (1988). Among other things, the plaintiff must allege and prove that the falsity of the representation was known to the defendant or was made with such reckless disregard for its truth as to impute knowledge and that the defendant mde the representation for the purpose of defrauding the plaintiff. Those required averments are lacking here. Embezzlement is a statutory crime, not a tort. It consists of the fraudulent appropriation or conversion of the personal property of another by one to whom it has been entrusted or who has otherwise received it rightfully Jordan v. Piano Co, 140 Md 207 (1922); Urciolo v. State, 272 Md. 607 (1974).

Count 3 charges malpractice by not talking with defense witnesses or preparing a defense as requested by the Blys. From other averments, the gravament of this ppears to be that Kinlein entered a plea of non-responsibility rather than demnd a jury trial and push for an acquittal. Although it is now clear from Treece v. State, 313 Md. 665 (1988), that the decision whether to enter a plea of non-responsibility rests ultimately with the defendant, if he is competent, rather than with his lawyer, that was not at all clear in 1986, when the events at issue here occurred. Indeed, as the Treece Court pointed out, earlier decisions had "suggested or held that the decision to plead not criminally responsible is one for counsel, not client, to make." Id. at 671. Thus, even if the averments of Cunt 3 are true, they do not make out a

case of malpractice, especially in the absence of any allegation that Bly was competent and that Kinlein did not have a substantial basis for believing that the plea had merit.

Counts 4 and 5 are based on alleged violations of various Rules of Professional Conduct adopted by the Court of Appeals through Md. Rule 1230. The Court has made clear, however, through the introductory provisions dealing with the scope of the Rules that,

"Violation of a Rule should not give rise to a cause of action nor should it create any presumption that a legal duty had been breached. The Rules are designed to provide guidance to lawyers and to provide a structure for regulating conduct through disciplinary agencies. They are not designed to be a basis for civil liability."

Count 6, principally through its

caption, charges Kinlein with violating the plaintiffs' rights of liberty, privacy, and family integrity. We are unaware of any cause of action for violatio of family integrity. To the extent that the rights of liberty and pracy are constitutionally based, the violtion of those rights may give rise to a civil action. See Widgeon v. Eastern Shore Hosp. Center, 300 Md. 520 (1984). But the averments of Court 6 simpy do not establish a sufficient violation of those rights. The lleged violation stemmed, as we indicated, from Kinlein's having filed an insanity plea on behalf of Mr. Bly which, at the time, he had a right to do.

Count 7 attempts to charge an intentional infliction of emotion distress. This too is based on the filing of the insanity plea. The elements of that tort are set forth in Harris v. Jones, 281 Md. 560 (1977).

None of them are sufficiently pled.

Count 8, charging Kinlein with disclosing confidential information, is, according to appellants, based on a violation of Rule 1.6 of the Rules of Professional Conduct. For the reasons stated with respect to Counts 4 and 5, such a violation, without more, does not give rise to civil liability.

Finally, Count 9 charges Kinlein with "not f(ul)filling the contract of defense" for which he was hired. Again, this is based on the decision by Kinlein to pursue an insanity defense which, at the time, he had a right to do if he thought it was a proper defense.

For the reasons noted, we find no error in the dismissal of the amended complaint. Mr. Bly sincerely feels much aggrieved by what occurred -- by the filing of a non-responsibility plea by Mr. Kinlein and by the aftermath of that

event. He may or may not have cause to feel so aggrieved. The problem is that he has failed to state any cause of action against Mr. Kinlein in his amended omplaint.

JUDGMENT AFFIRMED;

APPELLANT TO PAY THE COSTS.

RAYMOND J. BLY	*	IN THE
Plaintiff	*	CIRCUIT COURT
vs.	*	FOR HOWARD
RICHARD KINLEIN	*	COUNTY CASE NO.
Defendant	*	87-CA-7053

* * * * * * * * *

MEMORANDUM AND ORDER

Before this court is a motion filed by defendant, Richard Kinlein, to dismiss the amended complaint filed by the plaintiffs, Raymond J. Bly et al. The defendants contends that each count in the amended complaint fails to state a claim upon which releif may be granted.

The amended complaint sets forth nine counts which the Plaintiffs style as follows: (1) assault and battery; (2) fraud and embezzlement; (3) malpractice; (4) unprofessional conduct; (5) conflict of interest; (6) violation of Plaintiffs rights of liberty, privacy and family integrity; (7) intentional infliction

upon Plaintiffs of severe emotional distress; (8) disclosing confidential information and (9) breach of contract.

Under Rule 2-322(b)(2) and its predecessors, when ruling upon this type of motion, a court must decide whether the Plaintiffs has failed to present well-pleaded facts which state a cause of action. Zion Evangelical v. State Highway Administration, 276 Md. 630 (1976). In doing so, the court is required to assume the truth of all material and relevant facts that are well pleaded as well as all inferences which can reasnably be drawn from those facts. Tadjer v. Montgomery County, 300 Md 539(1984). Notwithstanding this directive, this court is deficient, in that it either fails to allege a necessary element of a cause of action alleged or fails to set forth facts sufficient to give rise to a cognizable cause of action.

For the foregoing reasons it is this 19th day of september 1989 by the circuit court for howard county. ORDERED[

that the motion to dismiss filed by the Defendant be, and the same is hereby GRANTED, and the amended complaint filed by the Plaintiff herein is DISMISSED.

Raymond J. Kne, jr.

JUDGE

copies mailed sept, 19,1989

IN THE CIRCUIT COURT FOR HOWARD COUNTY, MARYLAND

RAYMOND J. BLY

Plaintiff

vs. Case #87-CA-7053

RICHARD KINLEIN

Defendant

REPORTER'S OFFICIAL TRANSCRIPT OF PROCEEDING

(Motions)

VOLUME 1 OF 1

Wed. Oct 26, 1988

Howard Cty, Md.

BEFORE:

HONORABLE RAYMOND J. KANE, JR.

APPEARANCES:

For the Plaintiff:

Raymond J. Bly, pro se

For the Defendant:

Bernard Taylor, Esquire

Janet Falkenstine- Secretary/Court

Reporter

8360 Court Avenue

Circuit Court for Howard County

Ellicott City, MD 21043

P R O C E E D I N G

THE CLERK: Your Honor, I call Civil Action 7053, Bly v. Kinlein.

THE COURT: All right, this is a motion to strike filed by the defendant, Mr. Kinlein, and there's also a motion filed by Mr. Bly to compel discovery, is that correct?

MR. TAYLOR: That's correct, Your Honor. For the record Bernard L. Taylor on behalf of the defendant, Mr. Kinlein and that's what we're here for today. Originally it was scheduled for trial and for reasons of, I would imagine judicial lack of resources, that the trial in this case was postponed from today. There's

no reset date that I'm aware of.

THE COURT: Mr. Bly, you're here representing yourself, is that correct, sir.

MR. BLY: Yes sir, Raymond Bly representing himself and Mrs. Bly representing herself and the children.

THE COURT: All right. Sir you filed a motion to compel discovery and then there was a motion to strike filed by - on behalf of Mr. Kinlein. Would you like to be heard as to why you believe I should grant you some relief compelling discovery from Mr. Kinlein?

MR. BLY: Yes sir. September 8, I requested records for the second time on motions he had filed in my criminal case that are not in the criminal file, and January

1-3

I filed a request for an order to compel those records. He never answered them,

but the Court did and denied it until I had talked to him or written to him requesting them. I finally did write to him September 8th and asked for them by the 15th or 20th of September and I finally filed a motion to compel discovery of records January 26th and a motion to compel discovery - I think I filed two, no just one. October 4th I did file a second one to ask him to answer the rest of the interrogatories and to submit witness lists and stuff like this that he had not complied with the interrogatories. On the motion of January 4th, request for order to compel discovery, I listed item by item by item of evrything he did not comply with. I have two other things. Can I address both - the motion to strike now too and does he go first?

THE COURT: It doesn't make any difference. Why don't - why don't I just

- go ahead. Why don't you tell me what you have with reference - anything you care to add with reference to his motion to strike you want to respond to.

MR. BLY: On the motion to strike, it's supposed to be filed fifteen days before the court under the Maryland Rules and that's the Rule he stated Well, since trial has been delayed probably until after New Year's, it's in plenty of time before trial, so the motion to strike should be struck - stricken. Aother thing is I'd like to put it on record an objection to the constant delays. I have three children as witnesses in this case and they're forgetting what happened two years ago now, and the more delays, the harder it is for me to have witnesses on my behalf. But I realize the Court's predicament, but I'd ask for the shortest delay possible for trial.

THE COURT: Have you been informed by the Clerk when they are likely to reset this to get -

MR. BLY: Sometime next year way after New Year's.

THE COURT: In that your understanding Mr. Taylor?

MR. TAYLOR: I know that the docket is in fact setting jury cases sometime in February or March I believe in civil cases, as well as criminal cases.

THE COURT: Sir, have you told the Clerk how long you think the case will take.

MR. BLY: It shouldn't take more than one day on the plaintiff's side. Now, cross-examination, I don't know how long that will take.

THE COURT: Do youhave a sense as to how long that case should take Mr. Taylor?

MR. TAYLOR: If it goes to trial

probably three days if you add everything up, selection of jury, his witnesses and the defense witnesses, probably three days.

1-5

THE COURT: It's a two or three day case.

MR. TAYLOR: Yes, I would think that would be a fair estimate.

THE COURT: Go ahead sir, I'm just - is there anything else you'd care to add Mr. Bly.

MR. BLY: No, sir.

THE COURT: All right sir, you can have seat. Mr. Taylor would you like to --

MR. TAYLOR: Yes, s tothe motion to strike, Mr. Bly may be correct, it's probably relatively moot now that the court date has been moved. It depends, I guess, on when the next court date is because he does add an entirely new cause

of action as one of his counts. I believe it's a breach of contract which would have to be evaluated in any event. There would have to be some time to decide about that particular cause of action. He did file within fifteen days of the court date and adding a new cause of action, I filed a motion to strike on that basis in that the amended comlaint was not filed in accordance with the rules. I suppose it could very well be a moot questions now that a court date will probably be set, depending on when, sometime down the road. As far as his complaints concerning discovery, I don't have in my file a motion for production of particular documents. I did receive a request for admissions of facts and a set of interrogatories, but I don't have in my files,

1-6

just went through, any formal motion for

production of documents. It may very well have been delivered to Mr. Kinlein and not to me and I wasn't aware of it's existence until the motion to compel was filed. As far as the request of admissions of fact, I believe it's the plaintiff's chief complaint that the defendant didn't explain why certain facts were denied. It's my understanding that one is not required to explain in a request for admissions of facts other than yes this fact was admitted or no this fact is not admitted and no further explanation is needed and if any further information is desired, it would be pursued through other avenues of discovery. That's my understanding how that particular discovery tol works, so as far as the simple denial of certain facts tht Mr. Bly would like to see admitted or denied, the answer is adequate under the rules. As far as

particular complaints about answers to interrogatories, I think a lot ofhis complaints, for example, he asks - he complains about the sufficiency of the answer to paragraph two interrogatory number two asking to identify all persons who were involved with Mr. Kinlein's representation of Mr. Bly and the knowledge that they have about the case. Mr. Kinlein answered, of course, Mr. Bly, I believe his wife is also indicated and then Mr. Bly complains that Mr. Kinlein didn't add certain other people. It's rather like asking a question, well, who was

1-7

with you on such and such a date and to the best ofmy knowledge as a defendant or a party in an action, I say Mr. Jones, Mr. Brown and Mr. Smith and not answering that maybe Mr. Green was present. If the best recollection of a party is that Mr. Green was not present, well naturally

he's not going to appear in an answer to an interrogatory. A lot of his complaints are, well yes, Mr. Green was there and you're refusing to admit that Mr. Green was also present. I can only indicate that a party answers to the best of his recollection as to what occurred and if it's Mr. Kinlein's recollection and that it was only the Bly's that he dealt with, Mr. Bly and Mrs Bly, that's fine. In addition the question itself was rather vague. It says all persons who were involved with your representation of Mr. Bly. If - defense counsel might say, yes, I worked with the defendant and his family to a certain extent in this case. Now, although there would be contact with judges, prosecuting attorney's, perhaps police officers, perhaps review of police reports, but is that, you know, included within the intent of that question. I think that

question was answered to the best of Mr. Kinlein's ability and I don't think that any further answer is required if that's all that he either recollects or if that's all the contact he had with the defendant and people associated with the defense of a criminal case. You know, you could list a lot of people on a criminal case. You're liable to have been in court four times and appear before four different judges. Do you list all four judges. I don't think it's a good question, number one. Number two, I think that we answered the best we could. For example, he also complains, I think, about interrogatorynumber three. The plaintiff's asked defendant, Kinlein, to identify any person not heretofore mentioned having personal knowledge of the facts and materials of this case and hat knowledge they have and I think he - Mr. Kinlein said Catherine Bly, which is

Mr. Bly's sister if I'm correct and her knowledge was basically about family interactions and how upset Mr Bly happened to be at the time when he was charged. Then he complains about the sufficiency of that answer saying that he didn't elucidate what particular family reltionships were - well Mrs. Catherine Bly had with the family. I don't think that it's necessary to answer that one any further. Paragraph four asks to attach hereto any copies of signed statements made by the Plaintiff's, Department of Social Services, individuals, State's Attorney's office, Howard County police department, I don't believe that that's a proper question for interrogatories. It would be for a motion for production of documents, perhaps. Interogatory answers should never ask to append written statements or documents or paper. It's not a proper

interrogatory, my understanding is from

rules - decisions under the interrogatory rules, and again we - the next one, interrogatory number five, it's another one of those things where Mr. Kinlein answered to the best of his recollection and the response was, well you had further contact with other individuals or something. I don't think - it's like saying, I don't know and somebody saying, well yes you did. It is really not a basis for discovery complaint. I could go through a lot of them. I think that the only one that he may have that's a valid complaint is to state witnesses who the defense intends tocall. Through an oversight - at the time we answered we didn't know which witnesses we planned to call in this case. We do now know what witnesses we plan to call. We will let Mr. Blyknow what witnesses we will in

fact subpeona for trial in this case. Out of all the complaints he has about the sufficiency of the answers to interrogatories, I think it's the only one that has any basis and it was an oversight on my part to follow-up and supply him with the names of the witnesses as I decided who, in fact, would be called to testify in this case and for the record I will let Mr. Bly know who those individuals are. But as to the other complaints, for example nunber seven, interrogatory number seven, if you contend that a person not a party to this action acted in such manner as to cause or contribute to the current, give a concise statement of facts upon which

1-10

you rely. Well that's asking, is there someone else responsible for the harm done to me. You know, it's seeking possible additional parties to bring in

and the anwwer is none and then he complains about that. We know of no one else, who, you know, assuming in Mr. Kinlein's response, we know of no one else who would be responsible for what happened in this particular case and if we don't know, we don't know. I don't know how he can complain if we don't. You know, it would come out - his remedy would be a trial if we did say, oh, it asn't Mr. Kinlein, it was Mr. Jones or whatever. Then we would be boxed in and stuck. We couldn't then later complain that it was somebody else who caused some action to occur because we didn't in fact let him know that at the discovery level, but the remedy is not to come here and say, well yes, there's probably somebody else. That's an inadequate answer. It's the only answer we can give. That's the only thing I can say to the Court. I think most of these aspects tothese

motions to compel are without basis. The onlyone that does have a basis is the witness list which I will provide toMr. Bly. Other than that we'll rest.

THE COURT: Yes sir.

MR. BLY: Under Rule 2421, 2-421, it does state that you can ask for business records and statements from parties in interrogatories, but it's an old law - rule book

1-11

so I don't know it still exists. It's an '87 one. Also in one of the interrogatories I asked if he had malpractice insurance, he said he refused to answer.

THE COURT: Is that a matter that you believe he is required to answer.

MR. BLY: Not really.

THE COURT: Well, is his failure to answer that question - let me ask this. Do you believe he should be required to

disclose that information to you.

MR. BLY: I'm not sure of the Rules of Maryland whether it should be discloseable but if he does have insurance then the insurance carrier should be notified of this action.

THE COURT: My I inquire do - the plaintiff takes the position or the defendant, Mr. Kinlein, takes the position that's not discoverable.

MR. TAYLOR: Well as - that's one aspect, yes.

THE COURT: There is specific - the Rules now provide for - I haven't committed the Rules to memory but the Rules now provide for the discoverability of the existence of liability insurance, am I correct, in the tort sense, motor vehicle -

MR. TAYLOR: I believe the Court's correct, although I have a futher argument tomake reltive to refusal to

answer that interrogatory. I do believe the Court's correct

1-12

in certain instances of - insurance information is discoverable and it would be in -

THE COURT: Well, I'm just trying - does that mean all insurance, does that mean -

MR. TAYLOR: I think --

THE COURT: -there's a distinction, obviously, between malpractice insurance and liability insurance either for public liability or automobile liability.

MR. TAYLOR: That's correct. If somebody asks for insurance information you don't give them you home owner's insurance and automobile insurance if it's a malpractice action. You only supplythat individual with the carrier who would cover, perhaps, any malpractice claim.

THE COURT: Are there any other comments counsel would like tomake or Mr. Bly you'd like tomake about these -

MR. BLY: Nosir, not at this time, Your Honor.

THE COURT: I've not had a chance, to be honest with you, to review in depth themotion to compel. I would probably agree that unless we can set a trial date within the next week or two that the motion to strike probably is moot.

MR. TAYLOR: Right.

THE COURT: Give me a couple of days to look through the motion to compel and I'll have chance to

1-13

rule on the matter and do it in a written opinion and I'll notify the parties. Maybe by that time the Clerk will have notified me of when the trial date is and if, as you indicate, it's a trial date that's going to take place after the

first of the year, it seems to me it would be appropriate just to deny the motion to strike, but -

MR. TAYLOR: I agree. In all honesty I agree. I mean, that's the reason for the rule is prevent surprise and disadvantage to one side or another.

THE COURT: Unless the Clerk says we're going to have a trial date next week which isn't likely either.

MR. TAYLOR: That's true.

THE COURT: Let me hold the matter under advisement. I'll not delayit too long. Hopefully within the next couple of days I can get back with both of you, all right.

MR. BLY: Thank you Your Honor.

THE COURT: All right, thank you.

MR. TAYLOR: Thank youYour Honor.

THE COURT: Thank you.

I, Janet Falkenstine,

Secretary/Court Reporter for the Circuit Court for Howard County do certify the case entitled Raymond J. Bly versus Richard Kinlein, Case number 87-CA-7053, was transcribed by me tothe best of my skill, ability ad judgment. The transcription was taken from the electronically recorded tapes and the handwritten notes of the official court reporter, Janice Merkle, of the hearing before the Honorable Raymond J. Kane, Jr. on Wednesday, October 26, 1988 in the Circuit Court for Howard County.

I further certify the aforegoing pages one through thirteen constitute the official transcript of the above proceeding.

In Witness Whereof, I have affixed my signature this 7th day of November, 1988.

/s/ Janet Falkenstine

Secretary/Court Reporter

IN CIRCUIT COURT FOR HOWARD CTY, MD

STATE OF MARYLAND

vs. Criminal No 14797

RAYMOND JEAGER BLY and 15071

Defendant

REPORTER'S OFFICIAL TRANSCRIPT OF

PROCEEDINGS

(Motion to Dismiss) Howard County, Md

Wednes., Oct 1, 1986

BEFORE:

HON. ROBERT F FISCHER, Asso Judge

APPEARANCES:

For the State:

Mary Catherine O'Donnell,

Asst State's Attorney

For the Defendant:

RICHARD J. KINLEIN, ESQ.

Ruby C Higdon-Official Court Reporter,

Courtroom #1, Mt. Ida Bldg

Ellicott City, Md 21043

PROCEEDINGS

THE CLERK: Your Honor, I call Criminal No. 14797 and 15071, State of Maryland vs. Raymond Bly.

MS. KINLEIN: Richard Kinlein, representing the defendant. Your Honor, I have before you first a preliminary Motion to Dismiss. I'd like to have an opportunity to have you hear that motion, and I'd like to call in support of that motion Mr. Bly, who will testify from the witness stand. Mr. Bly, would you take the witness stand, sir?

RAYMOND J. BLY

The Defendant, called to appear in his own behalf, after having been duly sworn, was examined and testified as follows:

THE CLERK: State your name and address, please.

THE WITNESS: Raymond J. Bly, 8087 Washington Boulevard, Jessup, Maryland.

DIRECT EXAMINATION BY MR. KINLEIN

Q. Now Mr. Bly, what is your occupation,

sir?

A. I'm self-employed selling used appliances.

Q. And how long have you been doing that?

A. Nine years.

Q. And how long have you been living at your present address?

A. Thirteen years.

Q. And with hom do you reside at that location?

A. My wife and three children.

Q. Now I have on your behalf filed a motion that's before the Court to dismiss the charges against you. I had an opportunity to discuss the nature of the charges. First of all, do you understand what it is you're charged with?

A. Yes, sie.

Q. What do you -- what do you understand that you're charged with?

A. That I touched a lady, played with

this girl and assault and battery of this girl, and child abuse.

A. Uh-Hh, and you had something you wanted to tell Judge Fischer about that, what do you want tohave these charges dismissed against, you - what would you like to tell him about that?

A. I'm innocent.

Q. Well, I understand you pleaded not guilty?

A. Yes, Sir.

Q. You indicated in correspondance to me that you wanted to file a suit for - for a hundred million -- ten million dollars or something?

A. Yes.

Q. And you want that done here? What's the basis for that?

A. Well, when the girl made her original statement at the ppolice station, it did not consist of very much. It consisted that I laid on her, that I exposed myself

to her, and that I touched her breast one time. That's what she stated. Mike Marshal extended that saying that I refused to let her call home, that I refused to let her see her mother or her aunt and uncle, and I even offered to him a hundred times on the phone that I would sit in jail so she could come home to my wife and my in-laws would stop yelling at me.

Q. Well, who was yelling at you?

A. Everybody in the house because the girl was calling home crying saying I put her in the foster home and that she couldn't eat American food, she couldn't sleep, she couldn't do nothing, so I offered to him every day to sleep in jail or anything so she could come home.

Q. Now do I understand that you've been sleeping outside in the past few weeks?

A. I've been sleeping in a back garage room.

Q. Uh-huh, why is that?

A. Because the whole time they were there they were telling my wife one story and saying --

Q. Well, who's they?

A. My brother-in-law and sister-in-law.

Q. Um-hmm.

A. Was denying what they was telling me to do and they were ordering me around and cussing me and stuff, and I'd tell my wife about it and my wife would yell at them, and they'd say I'd misunderstood their English.

Q. Are you having a hard time dealing with this whole situation?

A. Yes, sir.

Q. Well, what-what--why--what's the problem with dealing with that?

A. When I reported Mike Marshall to higher authorities that he had lied in Juvenile Court and he had disobeyed the first Juvenile Court Order where I asked

to get her a psychological evaluation and counseling so they could help her come home when I thought she was my daughter, he refused, and then he lied to the Court, so I reported him, which immediately led tomy arrest.

Q. And how about Bates and O'Conner and McCrone and Fleischer and all these other people?

A When I was arrested Officer - Officer Bates no longer than I got to the police station and picked up the phone and said "Mr. Bly is here" and hung it up after he'd dialed the number. My wise said about twenty minutes after I had drove myself to the--Father Commack drove me to the police station that Mike Marshall had called there and demanded to come out and was told three times not to come. Fifteen minutes later he showed up at the door. He knocked. My daughter, Linda, started to open it and saw who it was,

started to close it and he jammed the door open, hurting her hand and started telling my wife she had to sign a court-ordered document.

Q. And at this point you maintain you hadn't done anything wrong?

A. That's correct.

Q. I understand that you told them that you factually -- that there was some basis to what was being said about you but that you had not done anything wrong, is that right?

A. Yes. There was some -- a little bit of truth to it. It was exaggerated greatly.

Q. Well, what - what was exaggerated?

A. Like for the fist time after two months she -- like she -- it was okay to give me a hug, so I bent over to the lower bunkbed to give her a hug and I accidentally fell on her. I got cussed out by my wife for three months after

that, that she told my wife I on purposely laid on her, but she did not say anything else. She told the police I laid on her, I spread her les, I played with her breasts and everything else.

Q. Oh, but you didn't do that

A. I was off of her in a couple of seconds. It was hard to get out of that cheap bunkbed, it went to the floor.

Q. Well, did - did you then or do you now understand that those kinds of things are against the law?

A. To hug a daughter?

Q. No, no, no, no, to lay on her while you were in bed with her.

A. I did not lay on her, I fell on her and got off.

Q. And the other things about exposing yourself and all that?

A. The exposing part, one day a friend of our's came named Kim. She's here in court, and she went to change her boy,

and my brother-in-law, sister-in-law and this girl and this girl, whoever she is --

Q. Well, who is this girl, whoever she is, that we're talking about?

A. We thought she was our daughter. We had not seen a picture of her since she was two years old when we left her behind in Vietnam.

Q. Part of the Viet Cong, is that what you told me?

A. Uh, they listed her as the daughter of my wife's sister, which was Viet Cong.

Q. Well, do you think she's here as a result of some Communist conspiracy that --

A. No, I --

Q. -- to get her into the country?

A. Three years ago I got a letter from my brother-in-law stating that our daughter refused to come. We had not received a letter the whole time from her

since we'd left her in Vietnam, but she was too young. I told them if she did not come he could not come, and I would not send the hundreds of dollars a year I was sending to them for support any longer and I cut off the money for one year to them. And then all of a sudden he sent letters stating that she was coming and we started getting letters from her that she wanted to come, please send more money. They didn't have money for food.

Q. And so you were telling the Judge about exposing yourself.' Was that to illustrate a point or something?

A. No. You asked me about --

Q. Yeah, I just wanted to know who this person was.

A. -- the girl. I don't know.

Q. You kept referring to this person.

A. She denies about being a daughter. When I asked for blood tests with the

Social Services they refused to give blood tests with her and my wife.

Q. Well, about this business about exposing yourself.

A. That whole evening after they saw this American son that was circumcised, uh, they kept asking my wife was white men different than orientals, and they couldn't believe that while men looked like that where orientals didn't.

Q. Well, let me ask you this, Ray. Do you think that there's anything wrong with what you did?A. Not at the time. I showed her because she insisted for a half an hour saying she was my daughter.

Q. And you don't see anything wrong with that?

A. In a house with one bedroom --Q. Not at that time you didn't see anything wrong with it?

A. No, sir.

Q. And all this busines that -- all:

th4ese charges are really sort of a conspiracy against you, is that what I understand you to say?

A Yes, sir.

Q. That all these people have sort of put together these facts and twisted them around so as to bring these criminal charges against you but they're not based on any factual situation that justifies it, is that what you're --

A. No, sir, well--

Q. You didn't do anything wrong?

A. No, sir.

Q. And - and you've having a very difficult time living with this, a very difficult time coping with it?

A. Mike Marshall seems to be god. All my friends tell me that a social worker is immune from the law. He could have kicked my daughter's teeth down her throat if he wanted to and got away with it.

Q. How about you? What's going to happen to you?

A. I don't know.

Q. Well, what do you think should happen to you?

A. If I'm guilty of a law that I broke then I can go tojail.

Q. Oh. But you're not guilty of anything?

A. To give a daughter a hug or after a daughter asked you for thirty minutes, uh, about circumcised and wanted to see and you showed her for a couple of seconds --

Q. I understand.

A. -- is not really wrong.

Q. I - I --

A. I considered her my daughter, I sent her money all the time to live. I raised her for the first two years of her life.

Q. Have you ever been in a VA Hospital or been examined by a psychiatrist?

A. No.

Q. Do you think that that would be appropriate?

A. What I do with my own life after court, if I do not got to jail, is up to me. I don't know what I'm going to do or where I'm going to go.

Q. You don't know where you're going to go or what you're going to do?

A. My wife doesn't want me to leave. She's apologizing for calling me a liar.

Q. How aboutthe guns and explosives? Do you have any guns or explosives?

A. I had some hunting rifles, but according to my probation I have to give them to a friend to hold for me because I'm not allowed to own any weapons.

Q. Wel, lt's get right to the last question first then. Do you think that it would be appropriate for Judge Fischer, for us to ask Judge Fischer to have you examined by a doctor and if

necessary, go to the VA Hospital, do you think that that would be to your advantage?

A. I refuse anything except the arrest record torn up. Either jail or the arrest record torn up because it's illegal.

Q. All right, if the arest record was to be torn up --

A. I don't want it expunged, I don't want to put in on the back folder. Mr. - Mr Marshall exaggerated the truth and lied about me to get the arrest record so he would not get into trouble with the Baltimore Office.

Q. And then these other people joined in this conspiracy against you, is that right?

A. My sister-in-law, the day after I helped tomove out to her apartment, went to welfare and said I kicked them out and stole their money and they had four

thousand dollars in the bank saved up in the eleven months. My wife is getting calls saying, "Why do you live-with that dirty old man?" They're spreading everything around the whole Vietnamese community about I could be in jil for the rest of my life. I stole their money, I made them work on the weekends for me, I did everything to abuse them.

A. Did you bring -- you said something about having a grenade launcher, do you have a grenade launcher?

Q. I know where I can buy them. You can go to Baltimore City and get anything you want for almost nothing.

Q. Well, doyou have any intention or expectation, are you going to use one for any purpose?

A. Not if legally Mike -- an investigation is started against Mike Marshall's past --

Q. Okay, if - if Mr. Marshall gets away

with this thing that he's done to you, what re you going to do about it?

A. I will earn my arrest record.

Q. Well, what do you mean by that?

A The countyspent thousands of dollars tohave me arrested illegally due tothis man saying -- there's been thousands of dollars keeping the girl in foster home, and I feel I should earn hat the money is spent on me.

Q. What do you mean by that?

A. I will not go into it farther.

Q. Judge Fischer doesn't -- he -- this is a kind and gentle man. You can tell hkm.

A. This man came over to our house constanty and wanted me to go for a psychological evaluation when he refused to take the girl. He didn't want my -- the court-ordered family counseling, he did not want family counselling, he wanted me a psychological evaluation and

my wife to go with this girl. He kept trying to break us p the whole time, which he has done.

Q. Well, let's get back down to blowing up the courthouse or whatever you were going to do, going after him. Is that what you had in mind? You were going to get revenge in some way?

A If he's immune tothe law and he can do this to other people like he's done to my family, then I must stop him some way or another.

Q. How are you going to do that?

A. I don't know right now. I have not decided. I will stop him some way or another. He cannot be immune from the law.

Q. How about these other people that you've listed here, Bates, O'Conner, McCrone, Fleischer, Friedman, Hammond, Strauss, Thompson, Ferrall, people like that? re they all part of this whole

thing?

A. They all backed Marshall. In fact, Marshall and Bates said I have a long history, ten, twelve years of wife abuse, child abuse, that my wife would lie in court me me. He told my old lawyer that. My old lawyer said I'd beyter plea hargain and take five years probation because I'm going to go to jail, I got a long history of wife and child abuse. I never had a police record in my life.

Q Well, how about the Veteran's Hospital, do you think the Veteran's hospital would be a good place to go and get this straightened out? All this -- assuming for the --

A. I did not do anything wrong

Q. You didn't doanything wrong. Now assuming for the sake of argument that you could go to the Veteran's Hospital or to a hospital and be examined, go tothe VA Hospital and all this would be torn

up, would that be acceptable to you, and the charges be dismissed and so forth?

A. Only if Marshall, Bates and my sister-in-law get prosecuted for filing a false police report tocheat welfare.

Q. And you've written this letter and that's what you want me to do is file this hundred million dollar or ten million dollar --

A. I don't want the money. You can donate it to any charity you want, I don't want a penny. I just don't want a social worker to be able tocome in and abuse my other daughter, my American daughter and abuse my wife when she was told to stay calm because her ulcer could perforate at any time again and she could die instantly. To come in and start threatening her as if she had to sign a court document while they conveiently threw me in jail.

Q. Well, youindicated tome in the

correspondence that you were going to leave your wife on Octobe the st, is that you're plan is?

A. My wife does not want me to leave. She --

Q. Does she want you togo to the hospital?

A. -- aftr talking to everybody and hearing all of the sides of the stuff, she finally understands that her family is lying about so many things to somany people, its pathetic.

Q. Don't you think Raymnd, that it would be better for you if you went tothe Vetern's Hospital or some other --

A. If I do it on my own and it's not a court order

Q. Wel, why is that? What's your -- what's the disadvantage of a court order?

A Because that shows that I'm guilty.

A. No, no, no, no.

A. And the only place that I'll go if

the record isng't torn up is jail. I will not go for psychological evaluation or counseling I'll do it -- maybe do it on my own to get my head straight so I can go on with life.

Q. Do youthink yur head needs to be getting - be gotten straight, do you think you need that?

A. Everybody tells me it's wrong to hug your kids goodnight at night. (Witness crying)

Q. It's really tough to deal with, huh? Tough to deal with? Saw them shoot a lot of children and other things didn't you? You had a touch time over there, didn't you?

A. I didn't shoot anybody over there I just drove a truck.

Q. I know. You saw a lot of bad things, didn't you?

A. I saw a lot of bad things but --

Q. It's all coming back, isn't it?

A. No I had a lot of good times over there with my wife too.

Q. A lot of these people are conspiring against you, telling lies about you, taking your money, taking advantage of your situation?

A. I should have listened to my wife. She told me not to bring her damn family. She says her family's going to make us trouble like everybody we know's family has made them trouble. Took them to court, put half of them in jail or took all their houses away from them.

Q. You can't deal with this, can you, Ray, you need some help, don't you?

A. (Nods head in the affirmative)

Q. Don't you think? Are you ready to agree to that? You need some help.

A. I refuse to answer any more questions because you're trying to make me crazy.

MR. KINLEIN: All right.

THE COURT: Thank you, Mr. Kinlein.

MR. KINLEIN: That's all that I have on - in support o my motion, Your Honor I have, as you see, filed on behalf of --

THE COURT: Excuse me a moment. Does the State have any questions?

MS. O'DONNELL: No, Your Honor.

THE COURT: Go ahead, Mr. Kinlein.

MR. KINLEIN: Your Honor, I've also filed on behalf of Mr. Bly, my client, a plea which I believe is appropriate under the circumstances of this case, without reflecting badly upon him. He's always been truthful and honest and forthright with me. He's a good and fair man who tries to tell the truth and live a good life as best he can. However, it's my opinion, based upon our many interviews and the correspondence that he's given me, that he is not capable of cooperating in his own defense in this case: that this - that this paranois, which is somewhat obvious from what he has

testified to, indicates, I believe, sufficient basis to suggest that there may be a mental disorder which would cause him to lack the substantial capacity to - to appreciate the criminality of at least some of those things that he even admitted to the Court, and obviously conform his conduct to the requirements of the law. On his behalf I think that it would be appropriate for the Court to order that he be examined for the purpose of determining the validity or lack ofvalidity of my observations and my recommendations to the Court. I don't think it's fair to put this man on trial under the circumstances. I don't think that it will serve the interests of justice, and it certainly would be to the disadvantage of my client. As you can see, I think he has the potential of being the State's best witness against

him, and those -- that's not what the system is about. This is about protecting him and protecting the integrity of a system which prevents those persons who are suffering from hat I believe he issuffering from from having to be held responsible for the consequences, and - and as he fears, being placed in jail and other things I think it would be appropriate for the Court to direct that he be taken to the emergency facility and have a preliminary examintin, and perhaps with a little bit of coo@peration from the proper medical uthorities he could be convinced that the Veteran's Hospital would be a good place for him to air these problems which he's been dealing with for mny years and have an opportunity to discuss this with people who are far better qualified than I tocome tohis defense. And with that I would submit.

THE COURT: Thank you. Does the State wish to be heard?

MS. O'DONNELL: Your Honor, the State's only comment is that it is the State's belief that dismissal of the indictment against Raymond Bly is not the proper remedy for Mr. Bly's problem. I have no comment with reference to the (inaudible).

THE COURT: All right The Motion to Dismiss will be denied, and in pursuant tothe plea that he is not criminally responsible because of mental disorder, the Court will Order the defendant, Raymond Bly, examined at an ppropriate facility, and Mr. Sheriff, would you take charge of Mr. Bly until such time as I can prepare and sign an Order. And could I meet with counsel.

(Court recessed)

IN THE

COURT OF SPECIAL APPEALS OF MARYLAND

September Term, 1989

No. 1600

RAYMOND J. BLY,

Appellant,

v.

RICHARD J. KINLEIN

Appelles.

Appeal From The Circuit Court for Howard County

(Raymond J. Kane, Jr, Judge)

BRIEF OF APPELLANT

RAYMOND J. BLY, pro se

PJ

8087 Washington

Blvd.

Jessup, Md. 20794

(301) 799-3516

Table of Contents of Appellants

Brief

STATEMENT OF CASE

Page

STATEMENT OF THE CASE.... 4

Issues Presented.....1

Statement of Facts.....5

Argument.....12

1. The court erred in dismissing count 1: Assault and Battery as per Md Tort Law Handbook by Gilbert.

II. The court erred in dismissing count 2: Fraud and Embezzlement as per Md. Tort Law Handbook by Gilbert and the Annotated Code of Md on Crimes.

III. The court erred in dismissing

count 3: Malpractice. This is not a recognized Tort in Md. but is a class of action recognized against doctors daily and should stand equally for lawyers.

IV. The court erred in dismissing count 4: Unprofessional conduct Many cases stemming from the Md Grievance Commission vs. a lawyer quotes Md Rules of Conduct So this should become a legalized tort for clients who come acress unprofessional conduct on the part of their attorneys as a constitutional right.

V The court erred in dismissing count 5: Conflict of Interest. Mr. Kinlein is a relative of a judge and a personal friend of the other judges in the Circuit Court of Howard County and answers their requirements before his clients. Md. Rules of Professional Conduct.

VI. The court erred (widely) in dismissing count 6: The vioation of the

plaintiff's rights of liberty, privacy and family integrity under the Md Constitution Article 28 and the U.S. Constitution Bill of Rights.

VII. The court erred in dismissing count 7: Intentional Infliction of Severe Emotional Distress. This is a highly recognized tort in Md

VIII. The court erred in dismissing count 8: Making information public that was given to him in a client-Attorney privileged status category under Md. Rules of Attorney/Client relationships.

IX The court erred in dismissing count 9: Breach of Contract. This is a very highly recognized tort in Md courts and should not have been dismissed because it did state a claim and an action recognized in Md upon which relief may be granted.

X. Md should conform to Federal pro se litigants complaint requirements where

the plaintiffs will address that a pro se litigant does not necessarily have to name the tort or right. The judge should name it for him upon reading the complaint. To do otherwise amounts to inflicting upon individuals the requirements of having a law degree which is against the constitutional rights of citizens to redress wrongs.

Conclusion..... TABLE OF CITATIONS.....

Appel vs. Hupfield 198 Md 374 (1951)

Article 28 of the Md Constitution

Carr vs Watkins, 227 Md 578 (1962)

Fowler vs. Benton 229 Md 571 (1962

Great Atlantic and Pacific Tea Co. vs. Toach 160 Md 189 (1931)

Household Financial Corp. vs Bridge 252 Md 531 (1969)

Jones vs. Harris, 35 Md Appl. 56 (1977)

Kellum vs. State 223 Md 80 (1960)

Md Rules of Professional Conduct

In Federal Court, if you say a police officer beat you over the head with a nightstick, they justify that as a violation of your rights and quote what right it is to you. In the State court system i f you made that statement in a complaint, it would not be legal tort unless you called it battery and said it was maliciously done with many other descriptive legal words to justify a tort. Only people with legal degrees and not all of them even can put in a legal complaint. My complaint was full of crimes, unprofessional conduct, injustices done to the Appellants by this attorney. We stated it as legally as we could upon which a claim could be based by our limited knowledge of the law. Its against our constitutional rights to be turned down just because it incorporated common English in usage instead of legal "falderal" which the court says I have to

Prosser and Keeton on the Law of Torts (5th Ed. 1984)

13 U. Baltimore L. Rev. 574 581-83 (1984)

Code of Professional Responsibility adopted by the Court of Appeals to regulate the professional behavior of lawyers.

STATEMENT OF THE CASE

QUESTIONS PRESENTED

Appellant, Raymond J. Bly, filed a complaint against the Appellee which was dismissed for failure to state a claim. The court is discriminating against the Appellant in requiring him to state a claim. This amounts to requiring him to have a legal degree. The Appellant did state many legally-justified claims in his complaint according to the Md. Tort Law Handbook but should not be expected to state every single word that is legally required to justify that claim.

know.

STATEMENT OF FACTS

After the Bly's had hired an attorney from the yellow pages that did not know trial procedures but only knew how to plea bargain, they hired Mr. Kinlein because he was well versed about trials. Mrs. Bly, An Appellant, hired him to defend her husband as being totally innocent and injustly accused of all of the charges. He stated at that time that he would plead Mr. Bly as innocent and have a jury trial. He accepted money for his services that Mrs Bly had contracted with him to perform. Not knowing that he being a prior states attorney that had hired most of the present states attorneys and being friends with the social workers and police officers involved and a relative of the judge who heard the case, we were convinced by him that he would defend Mr.

Bly vigorously and even file a law suit against the perpetrators of these illegal charges against the Appellant, Mr. Bly.

He refused to look into the background of the case that social services, the police and the states attorney had violated many of the Appellant's rights and had not done any investigation whatsoever into the case but just deemed the Bly family guilty. He also, by talking with his personal friends and relatives without the knowledge of the Bly family deemed the Bly family guilty and, to save his friend's reputations of all of the crimes they had committed against the Bly family, proceeded in helping them to try to destroy the mental, financial and emotional wellbeing of the Bly family to assure they are quieted.

He refused to look into this young woman's identity and her age. The Blys

now believe that Mr. Kinlein - like other officials - knew this woman was not a minor and further that she was an illegal alien which means that no criminal charges should of ever stood against Mr. Bly. Mr. Bly had witnesses that heard the in-laws make these fictitious complaints, laughing at parties how they had made it all up. When Mr. Bly demanded that Mr. Kinlein talk with one of them, he scared her so much and cut the time so short that she was unable to tell the story at all. He intimidated her.

The Appellee, Mr. Kinlein, also harassed, threatened and yelled at Mr and Mrs Bly, the Appellants in his legal office on several occasions demanding that Mr. Bly confess his crimes saying that hugging his children was child abuse. He constantly destroyed the mental health of Mr. Bly causing him to

be more and more paranoid and depressed and have to receive more and more counseling from a psychiatrist and a minister who had a degre in counseling in order to maintain his sanity. Both of these professions Mr. Kinlein knew of and was asked to talk to numerous times. They had stated in court after Mr. Bly had been thrown in jail as insane that Mr. Bly was not insane at all. Mr. Kinlein, being a sttes attorney, knew the power of the courts and jail system and sheriff's office had against an individual. He knew that if he stated in court that Mr. Bly was crazy and probably a drug addict and a Vietnam veteran that had killed babies and had threatened to blow up the courthouse, that the sheriffs would manhandle Mr. Bly way beyond normal detention of an arrestee going to jail He knowingly caused the battery upon Mr. Bly by his verbal assaults and slanderous

remarks amounting amounting to defammation of character made by him against Mr. Bly to guarantee the battery of Mr. Bly to break him totally down as insane or to permanently quiet him by intimidation.

He also knew Mrs. Bly's reaction would be one of hysteria because she knew beyond any doubt of Mr. Bly's innocence and that the sheriffs would manhandle her also. He knowingly did this intentionally to inflict severe emotional distress on the entire Bly family to save his friends from the crimes Mr. Bly had put arrest warrants out on them for.

He, then, proceeded in not representing Mr. Bly by not disclosing that bail had been set. The Bly family was left completely in the dark of this knowledge so that they couldn't get him released or at least believed that they couldn't get him released and he would

sit there for months until he was committed to Perkins State Hospital for the Criminally Insane which he knew would probably make Mr. Bly insane if he were committed. Because the Bly family was unaware that bail had been set, Mr. Bly spent needless days incarcerated. By accident, a friend of the Bly family discovered that bail had been set and helped Mrs. Bly in getting the necessary funds to get her husband released.

By having Mr. Bly in jail, Mrs. Bly was unable to have any constitutional rights that she demanded through Mr. Bly just as Mr. Bly had demanded making phone calls and writing letters to officials to redress the crimes committed against him and his family. Mrs. Bly also wanted to complain to officials. Mrs Bly did not know how to use the phone or to get addresses and asked her husband to do it for her so that she could talk to the

officials. Mr. Kinlein stopped all this by Mr. Bly's incarceration.

Further, Mr. Kinlein, as stated in the complaint, told Mr. Bly to act insane and he could get him off on an insanity plea. Mr. Nly rfused saying he was not guilty of the charges and did not need an insantiy defense to get him off of the charges. Mr. Bly believed the truth would stand which Mr. Kinlein had refused to look into and which he didn't look into.

Also in court the Appellee, Mr. Kinlein, did mke Mr. Bly sound like a very bad man by withholding 98% of a statement he had made to him in confidence only saying the 2% Mr. Bly had told him that might make him look guilty before the court.

Upon his release from jail, the friend that had helped Mr. Bly get released recommended a lawyer that could

possibly help Mr. Bly. He was a civil right's attorney not a criminal attorney. Mr. Bly contacted him and retained him in the case. No matter how many motions this new attorney put in, Mr. Kinlein refused to withdraw from the case saying that Mr. Bly was crazy and couldn't fire him. He held off quitting for 2 months until Mr. Bly was scheduled as per his release agreement to take an evaluation at Perkins. Hoping that Mr. Bly's insanity would be proved to save himself, Mr. Kinlein looked forward to this day.

Mr. Bly and his new attorney through legal loopholes, was refused to have the evaluation taken of him by Perkins. Two weeks later, Mr. Kinlein finally withdrew because the court had ordered him to make Mr. Bly take the test.

As the appellants have stated in court per their complaint, Mr. Kinlein

only wanted Mr. Bly to answer two questions: Was he guilty? Did he want a jury trial? The appellant responded that "No, I'm not guilty of these charges and yes, I want a jury trial". The appellee Mr. Kinlein, assured the Bly for the entire 4 months that Mr. Bly would win his defense, be released of the charges, would have no arrest record, would have a jury trial and would recovery of his lawsuits gainst officials. Mr. Kinlein repeatedly told the Blys that they would win, that he knew what he was doing, and that he didn@t need to talk to any of the Bly's witnesses. During these 4 month, Mr. Bly repetedly gave Mr. Kinlein monies for his defense with the continuing assurance that Mr. Kinlein was an excellent attorney and that he knew what he was doing and would handle everything as the Blys had requested of him.

By the appellee's actions in court

against Mr. Bly contrary to everything he had previously told them, Mrs. Bly was placed into a position of disbeleif. She was shocked and outraged. Had she expected any of Mr. Kinleins vicius remarks against Mr. Bly, she problably could have handled what happened a bit better. As it was, she flew into a verbal tirade at the court and at Mr. Kinlein. When the officers began to manhandle her husband, she flew forward to protect him. This led to the court's phycial restrint of her. This was embarassing to her as well as to Mr. Bly and their children. They had brought about 20 witnesses to court to testify for Mr. Bly who sat in court and witnessed this entire fiasco. Everyone in the courtroom was in a state of disorder. Finally the judge withdrew

Mr. Kinlein told Mr. Bly's family that he was only going to be restrined overnight. That he would be transferred the next morning to a medical facility for treatment. He knew, of course, that most of the prisoners would be detained in custody for up to 6 months. Further, he knew that being named as "insane", Mr. Bly would suffer the further humiliation of being stripped of his clothes and would nearly freeze to death overnight in his jail cell. He knew that the authorities would not put any credence into any remarks Mr. Bly might make to them while he was incarcerated. Up until this time, Mr. Bly had had no occasion to see this other side of life. He had a clean record and had never been in trouble with the police. Contrariwise, he had used a CB in his home for years to help victims of accidentsc, etc. and had a good reputation in his neighborhood.

In one fell swoop in one day Mr. Kinlein manage to erase decades of hard work on the part of the Bly family to uphold their good name.

It is almost unnecessary to further stte that that day in court led to prejudice on the part of the judge (who was a relative of Mr. Kinleins), the states attorney, the police officers and social workers against Mr. Bly. It is his family that this prejudice carried over into his trial.

There is no fit way to describe the feeling of being betrayed that Mr. Kinlein engendered by his words and actions. That they became mistrustful of lawyers and judges is certainly true. That the fear engendered in them by this sudden and "out of the blue" incarceration hindered their ability to mount a defense is certainly true. Fear that a wrong word or a wrong action might

bring about furthe atrocities kept this stilled. Life would never be quite the same for them The husband and father they knew and loved could be removed forcefully and cruelly from them without doing anything terrible made the Bly family afraid to speak up lest the same fate might befall them. If it could happen to Mr. Bly, it could happen to his family.

ARGUMENT

1. The court erred in dismissing count 1: Assault and Battery as per Md. Tort Law Handbook by Gilbert.

In this handbook, it said an assault is an apparent attempt with unlawful force to inflict bodily injury upon another accompanied with the apparent present ability to effect the attempt if not to prevent it. There needs to be no real intent to injure physically the person who is assaulted.

Battery is a competed assault. It consists of the unpermitted application of trauma by one person upon any part of the body of another person. It goes on to say that the term trauma does not mean that the person traumatized, i.e., against whom the battery has been committed need be physically injured. The mere willful placing of a hand upon or the purposeful touching of the person of another, or something initimately connected with another, is sufficient to commit the battery.

In the complaint the appellants clearly alleged extreme verbal abuse and threats by the appellee to the appelllant while in his office that battered the appelant's mind and broke the appellant down to tears. The appellants also in their complaint stated the assault and battery that happened with his representation October 1st, 1986 in the

Circuit Court for Howrd County, Md. In court, Mr. Kinlein, did the same thing as somebody standing on the street corner that had called the police and when the police got there, told the policemen that the man standing there had just killed 2 people and was heavily armed. The police would respond extremely violently toward that person because of the statement that that man had made to them towards the suspect. This is what the appellee, Mr. Kinlein, did to Mr. Bly in court causing him and his family to be physically assaulted by the sheriffs of Howard County. Heverbally assaulted the appellant, Mr. Bly, in a violent way to convince the sheriff that he was a very dangerous man. This caused the battery of Mr. and Mrs. Bly as stated in the complint. This count in the complaint did state a just cause of action where relief can be granted and should not have

been dismissed except for the overwhelming prejudicial biases of Mr. Kinlein's friends at the Circuit Court. This is substantiated by the overwhelming vote of all the judges in Howard County Court trying to get Mr. Kinlein and only Mr. Kinlein the new judgeship in Howrd County.

In the Md Law Torts Hanbook it states 30 such cases that back this up. I will not go into each and every case for the sake of brevity.

II. The court erred in dismissing count 2: Fraud and Embezzlement as per Md Tort Law Handbook and the Annotated Code of Md on ^Crimes.

In this handbook the elements necessary to sustain an action for intentional misrepresentation are: (1) the defendant made a false representation of a material fact to the plaintiff: (2) the falsity was known to the defendant,

or the misrepresentation was made with such reckless disregard of the truth as to be the equivalent of actual knowledge of its falsity (3) it was made by the deendant for the purpose of defrauding the plaintiff; (4) the plaintiff not only relied upon the misrepresentation but had a right to rely upon it; and (5) the plaintiff suffered damages as a direct result of the reliance upon the misrepresentation. It further states that this misrepresentation is actionable if the plaintiff relies upon the statement to his detriment. Therefore, misrepresentations of past or existing fact or promises to perform, if they are neither vague nor general, may provide a derauded plaintiff with a basis for recovery.

If the truth had been told by Mr. Kinlein up front at any time during his 4 months of hire, Mr. Bly would never had

embarked upon the course that ultimately caused him subsequent harm, i.e., imprisonment. Further, any reasonable person would have relied upon the statements of Mr. Kinlein, in deciding whether to participate in the transaction. The materility of the statements made by Mr. Kinlein to the entire Bly family established the causation of the plaintiff's injury. They relied upon Mr. Kinlein's statements to them to be true insofar as his conduct of Mr. Bly's trial was concerned.

The handbook further states in 17.3 that deliberate omissions or concealment of material facts are as actionable under Md law as affirmative misstatements. That Mr. Kinlein omitted to state his intentions is obvious by the evidence. No one would have willingly gone into court to be maligned, misrepresented, verbally assaulted and condemned by his

attorney resulting in his being handcuffed and dragged out of courtroom against his will (unless, of course, he's crazy).

Mr. Kinlein had the privilege of speaking to 2 different doctors who had treated and counseled with Mr Bly since the original charges would placed against him. Mr. Kinlein willfully chose to never call either of them to ascertain the truth of the matter but made an independent decision outside of professional circles of expertise.

Embezzlement under the Md Code is defined as taking money under a fraudulent assumption. Mr. Kinlein, as stated in the complaint, took money from the appelants to supposedly defend Mr. Bly gainst the charges in court - not to plead his crazy and have him locked up. Obviously, he misused the funds, the power, and the appellants when he did th

States Attorneys job for them in condemning Mr. Bly.

III. The court erred in dismissing count 3: Malpractice. This is not a recognized Tort in Md but is a class of action recognized against doctors daily and should stand equally for lawyers.

Malpractice cases are wanted by most lawyers to regain large sums against doctors. This is evidenced by their many legal commercials on TV. Lawyers can and should be liable for malpractice for not following the normal procedure in a criminal case or what the Md Rules of Professional Conduct requires them to. As a doctor can be charged with malpractice for not following regular procedures in medical treatment of patients, so should a lawyer be held liable for going outside the law and having his client placed under arrest with no trial held where the defendant

///

can reasonably defend himself. During the court case on October 1st, 1986 Mr. Bly had no right to defend himself because it was his own attorney who condemned him. He was not allowed to take the stand and nothing he said helped him. An attorney must be held answerable in a situation such as this one. In the Ethical Rules of Conduct amounting to a moral code of conduct, even when they know their client is guilty and so confesses to them, the attorney's job is to defend him and try to keep him out of jail to the fullest possible extent of his abilities. The appellants told Mr. Kinlein that Mr. Bly was innocent and further, that he had witnesses to back him up as stated in the complaint. However, Mr. Kinlein refused to talk to anyone. Instead he reiterated that he would get Mr. Bly off and his arrest record expunged.

IV. The court erred in dismissing count 4: Unprofessional conduct. The appellant court of Md. has adopted rules of conduct that the Md. Grievance Committee and Bar Association can use to suspend or disbar attorneys by. These rules were adopted to keep lawyers in certain stand guidelines that is acceptable in the practice of law. If they totally disregard these Md Rules of Conduct and act in a very unprofessional manner, there should be cause for a legal tort against them with a recovery of damages. In the preamble to the Rules of Professional Conduct it states "In all professional functions a lawyer should be competent, prompt and deligent. A lawyer should maintain communication with the client concerning representation of him." A lawyer should keep in confidence information relating to representation of a client. Rules I.I Thoroughness and

preparation, Competent handling includes inquiring into an analysis of the factual and legal elements of the problem. It also includes adequate preparation. Rules I.2 A lawyer should abide by his client's decision concerning the objectives of representation. Under Rules 1-3 Comment states a lawyer should persue a matter despite opposition, obstruction or personal inconvenience. A lawyer should be committed and dedicated to the interests of the client and with zeal in advocacy upon the client's behalf. Canon 7 states under DR 7-101A says a lawyers shall not intentionally fail to seek the lawful objectives of his client. Sub 3 a lawyer shall not prejudice or damage his client. Rules 1-4 A lawyer shall keep a client reasonably informed and shall explain a matter to an extent to permit his client to make informed decisions regarding the

representation. Rule 1-6 Confidentiality of information Sub A A lawyer shall not reveal information unless the client consents after consultation. Rules 1-7 Loyalty is an essential element in a lawyer's relationship to a client. Rules 1-14 states that a lawyer should listen to the next of kin for help in representating the client if they feel the client is mentally ill. The lawyer should also seek guidance from an appropriate diagnostician. Kinlein was hired by Mr. Bly's wife. He wouldn't talk with her. Mr. Kinlein knew of a licensed PHD psychiatrist and a minister with a degree in counseling who had extensive counseling sessions with Mr. Bly and knew him inside and out but refused to speak to either of these professionals. Rules 7-1 states the lawyer must not make false sttements to others. Rules 8-4 also applies here

insofar as Mr. Kinlein's unprofessional behavior is concerned.

In the preamble to these rules, it sttes that the rules are to provide a structure for regulating conduct through disciplinary agencies.

5. The court erred in dismissing count 5: Conflict of Interest. Md. Lawyer's Rules of Conduct state clearly that it is a violation of the rules to represent a client against the lawyer's personal friends and relatives when the lawyer's interest would, of course, be family and friends first and client last. This might not be a legal tort but should come under the Md Constitution as a violation of the Bly family's rights and also under the tort of Fraud and Misrepresenation. As stated in the complaint, very clearly, Mr. Kinlein, the appellee, took the Bly's money and did the States Attorney's job to have Mr Bly, the appellant thrown in

jail and quiet the Bly family.

6. The court erred (widely) in dismissing count 6: The violation of the plaintiff's rights of liberty, privacy and family integrity under the Md Constitution Article 28 and the U.S. Constitution Bill of Rights. The appellee clearly, as stated in the complaint, by his actions in his office telling Mrs. Bly that Mr. Bly was builty of child abuse because he wanted to hug his children goodnight like he always had telling the Blys that these officials are allowed to do anything they want to you and that even if you did file a lawsuit against them, they are immune. He yelled and screamed at Mr. Bly in his office to try to convince Mrs. Bly that Mr. Bly is a bad man and then saying that he was sorry and would defend us when the appellants would break down crying that hugging your children could not be bad

and could not be a crime. In court Mr. Kinlein knew he was going to have Mr. Bly thrown in jail. By Mr. Kinlein conspiring with the States Attorneys, police, social workers and the judge, Mr. Kinlein had found out and was totally convinced that a complaint that had been previously filed by his sister who had been taking pain-killers for a back condition and was not herself. She also wanted revenge because she thought her brother was cheating her out of her father's estate. It was also conspired, this original child-abuse report, with a drug-addicted homosexual cousin of Mr. Bly whom Mr. Bly had fired for selling and buying drugs over his store counter. The report was immediately dismissed as unfounded and untrue but Mr. Kinlein was uner the belief by his friends that Mr. Bly tortured, beat, raped and mentally abused his wife on a daily basis to make

her lie for him and he thought in court that he was doing Mrs. Bly a service by putting her husband away against her wishes. He was hired by her not the appellant Mr Bly to defend Mr. Bly. He should have talked with the many witnesses concerning the truth or falsity of his beliefs before proceeding. This was a clear violation as stated in the complaint of this family's right of privacy, integrity, and liberty. As stated in the complaint, he not only had Mr. Bly thrown in jail which restricted his liberty, Mrs. Bly was basically in jail also since she couldn't drive or use 411 to find out phone numbers of people she wanted to call and the Bly children not being able to have food in the house or other transportation needs, they were the same as in jail. If this is not a violation of Acticle 28 of the Constitution and a legal tort, then the

Constitution should be declared null and void as an impotent propogandized instrument of the government.

7. The court erred in dismissing count 7: Intentional Infliction of severe emotional distress. In the Md Tort Law Handbook Section 16.1 lists the elements of intentional infliction of emotional distress. It states the claimant, i.e., Mr. Ely must demonstrate (1) The defendant's i.e. Mr. Kinlein, conduct must be intentional or reckless. (2) The defendant's conduct must be extreme and outrageous. (3) There must be a causal connection between the defendant's wrongful conduct and the emotional distress about which the complaint is made and (4) The emotional distress must be severe. If you refer to page 5 of the original complaint filed, you willfind that all 4 conditions were met in this regard.

Under Md Rule 2-322 (b) its permissive to claim failure to state a claim upon which relief can be granted. The appellee, Mr. Kinlein, submitted 3 such motions and the appellants answers to the complaint. The first one as an answer to the complaint stated failure to state a claim upon which relief could be granted and asked for the complaint to be dismissed. (See Exhibit 1) The appellants answered as an answer to motion to dismiss the court did nothing and proceeded to allow discovery to occur in the case (See Exhibit 2). Then, the appelee, Mr. Kinlein, put in a supplementary answer to complaint. This also stated failure to state a claim upon which relief can be granted and wanted the complaint dismissed. The appellants (see exhibit 4) put in an amended complaint and prayer for jury trial instead of answering what they believed

was a second motion to dismiss. The court did nothing and proceeded in letting discovery continue. The court even ordered Mr. Kinlein to turn over his documents and to answer an interrogatory. Then Mr. Kinlein put in a third answer to the complaint worded "motion to dismiss" under the same grounds of failure to state a claim upon which relief can be granted. The appellants were positive that the court would ignore this motion to dismiss as they had the previous 2 and allow the case to go to trial. The appellants were also under the assumption by the Md. Rules that this being the 3rd motion to dismiss under exactly the same cause and Md. Rule that it could not stand. The appellants were wrong. The court jumped on it and dismissed it whereupon the appellants put in a motion for reconsideration and an appeal frm the case. This court has shown prejudice in

every single case, bending the law and the line of the law making almost a "U" turnso they would not cross over but stop Mr. Bly from proceeding against the many officials, judges, states attorney, police officrs, etc. who conspired with Mr. Kinlein and others, who the appellants are trying to redres the wrongs against.

8. The court erred in dismissing count 8: Making information public that was given to Mr. Kinlein in a client-Attorney privileged status category undder Mr. Rules of Attorney/client relationships. This was also a violation of a tort of privacy and comes under false light publicity. Under Md. Rules not one word of privileged information can be aired in court without permission of the client. Mr. Kinlein had no such permission. The appellants now know that Mr. Kinlein had this all preplanned to break this

confidence, exaggerate the truth and lie to the court against his client and had demanded his client and the client's wife who had paid him not to bring a single witness to court because he did not need one to defend Mr. Bly. This was an act so that Mr. Bly would not be slandered, defamed, embarassed, ridiculed or held before public scrutiny. Not knowing anything of Mr. Kinlein's plans, Mr. Bly had all his witnesses in court in case they were needed. Because of this, Mr. Kinlein screamed at Mr. Bly right before court in court that he didn't want any witnesses, didn't need any witnesses and to get them out of court. Mr. Bly refused and asked "Why?" Mr. Kinlein reiterated once more that he was the lawyer and knew what he was doing to defend him and demanded that he listen to him. Being in the dark totlly, Mr. Bly again refused wondering how Mr. Kinlein

was going to defend him with no witnesses.

Mr. Kinlein then proceeded in a tirade aginst Mr. Bly and revealed confidential information given him in a client/lawyer sttus before the entire court - without permission of either Mr. or Mrs. Bly.

9. The court erred in dismissing count 9: Breach of Contract. Mr. Kinlein was hired by Mrd. Bly to defend Mr. Bly as not guilty of all the charges. In fact, told the appellee that the people making these charges were guilty of crimes and that they had the proof of this. Mr. Kinlein contracted with the Bly family to represent Mr. Bly as innocent, present his case in front of a jury, and keep him out of jail. As stated in the complaint from start to finish, Mr. Kinlein did NONE of this. In fact, Mr. Kinlein, acting on his own, did the opposite and

prosecuted Mr. Bly resulting in damages to every member of the Bly family. Mr. Bly's famous statement which he has referred to many times in the amended complaint on page 8 and in the original complaint on page 7, the appellants clearly stated "he took the Bly's money and then did the States Attorney's job and put Mr. Bly in jail". When you contract with someone to perform a service and that someone is a lawyer and the service that was contracted was to defend Mr. Bly as innocent, an insanity plea is not innocent. It, basically, says to the court that the man did it but was crazy at the time so he is not responsible his acts. This was a clear breach of contract in every sense of the word in every law book we have found and in every case we have read to date.

10. Md. should conform to Federal pro se litigants complaint requirements where

the plaintiffs will address that a pro se litigant does not necessarily have to name the tort or right. The judge should name it for him upon reading the complaint. To do otherwise amounts to discrimination (inflicting upon individuals the requirement of a law degree) which is against the constitutional rights of citizens to redress wrongs. In the Federal Court System, a pro se litigant does not have to state the rights, the statutes, or the torts that were violated - only a statement of facts. Then the judge will name them for him.

Uner 42 USCS 1983 n560 pro se complaints are held to less strngent standards than formal pleadings drafted by lawyers. District Court must be sensitive to problems of pro se plaintiffs in civil rights actions and no be too quick to dismiss complaint for

failure to state technical cause of action.

Federal civil procedure 1788-5 (2543) claimed status as pro se civil rights litigant require that the court carefully examine complaint on motion to dismiss and determine whether facts allege might be able to prove a basis for recovery or other heads of jurisdictions in federal arsenal for redress.

Under 1832 due process claims would be analyzed under both a procedural and substantive due process framework where plaintiff had not structured his argment as to the type of violation he asserted.

Under 1983 it says "complaint should be not dismissed unless it appears to certainty that plaintiff is entitled to no relief under any set of facts which could be proved in support of his claim".

CONCLUSION

In conclusion, to summarize the

foregoing, each case of counts 1 through 10 have been satisfctorily justified. It is, therefore, prayed by the appellants that this case go forward.

The current case stems from false allegations of an illegal alien that came to this country under the appellant's daughter's name illegally. She caused a lot of trouble in the Bly home and then suckered the county and state officials into believing her and treating her special while prosecuting the Blys. The officials proceeded to commit various civil rights violations against the appellants, State and Federal crimes and then Mr. Kinlein came into the picture. He was a lawyer beyond reproach according to every authority we spoke with. He was declared to be the best lawyer money could buy. The problem with him representing me is that if I won, his reltives and personal friends lost. You

see they were involved in my prosecution and their crimes and rights violations had to be covered under a cloak of immunity which meant I had to be convicted of child-abuse.

The Bly family up until the time of Mr. Kinlein's representation, had been awarded commendations from the major and chief of police of Laurel, Md. for outstanding civic duty in times of need through my REACT Club where we were deputized. We also helped out holloween, July 4th, the Thanksgiving parade, etc. to direct traffic and otherwise assist the police. Anotherwords, we were on the side of law and order We had never been on the other side of the fence. We hadn't even known anyone on the wrong side of the law. We had never even been in court as a witness for anyone.

If this cout agrees with the lower court's prejudicial ruling to let this

attorney get away with what he has done, not only to me but I have found since then dozens of other people who are scred of him because of things he did to them also

If this court reverses the judgment and grants my appeal, I would beg this honorable court of special appeals to send my case back to a more unbiased county court system like A.A. Baltimore, P.G. or Montogomery County for the trial.

As pointed out earlier in this appeal, I'd like to reiterate the prejudice of Howard County Court judges against the Bly family in their plight to redress the wrongs committed by these few people in Howard County. If you remember, the Governor asked for 5 new appointees for the judgeship to take Judge Fischer's place. These judges nominated only one person for the governor to consider "**RICHARD KINLEIN**".

After my conversation with the Governor's office about Mr. Kinlein, I was very pleased to find out that the Governor demanded 5 more names to be submitted and did not appoint Kinlein.

EXHIBITS

The following exhibits are attached to the end for quick reference. They are

1. The original complaint
2. The answer to the complaint
3. Supplementary answer to the complaint
4. An amended complaint to answer supplementary answer
5. Motion to dismiss and memoranda
6. Motion for Reconsideration
7. Index to the case
8. The Application for the Appeal
9. Response to plaintiff's Motion for Reconsideration
10. The transcript from Wed. Oct 26th 1988 on Motions Hearing.
11. Transcript from October 1st, 1986

Hearing.

RAYMOND J. BLY
8087 Washington Blvd
Jessup, Md. 20794
(301) 799-3516

TIENG DOAN BLY

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of January, 1990, a copy of the aforegoing brief was hand delivered to Bernard L. Raylor, Atty for Richard Kinlein, 8355 Court Avenue, Ellicott City, Md. 21043

RAYMOND J. BLY et al	* IN THE
PLAINTIFF	* CIRCUIT COURT
vs.	* FOR HOWARD
RICHARD KINLEIN	* COUNTY CASE
DEFENDANT	* NO 87CA7Ø53

* * * * * * * * * *

AMENDED COMPLAINT AND PRAYER FOR JURY TRIAL

A. Nature of this case.

1. Plaintiffs bring this action to redress the following wrongs committed by defendant: Assault and battery on all plaintiffs (Count 1): Fraud and embezzlement of paintifs (Count 2): Malpractice (Count 3): Unprofessional conduct (Count 4): Conflict of Interest (Count 5): Violation of plaintiffs rights of liberty, privacy and family integrity (Count 6): Intention infliction upon plaintiffs of severe emotional distress (Count 7): Making information public that was given confidentiality tohim (Count

8): Breach of Contract (Count 9).

Plaintifs seek compensatory and punitive damages and recovery costs.

1. Venue.

2. All acts and omissions complained of herein occurred in Howard County Md

c. Parties.

2. Plaintiff RAYMOND JEAGER BLY ("MR BLY") and Plaintiffs CHRISTINA TIENG BLY BORN MARCH 17, 198Ø, LINDA TIENG BLY BORN MARCH 18, 1973, CURTIS RAYMOND BLY BORN OCTOBER 18, 1976 ("THE BLY CHILDREN") RESIDE TOGETHER AT 8Ø87 WASHINGTON BLVD. JESSUP, MD 2Ø794.

4. DEFENDANT MR. RICHARD KINLEIN IS AND WAS AT ALL PERTINENT TIMES A RESIDENT OF MARYLAND and has his on law practices in Howard County, Md and is licensed by Maryland to practice law.

D. Statement of Facts.

5. The Blys arranged for Ngoc Hong Doan ("NGOC"), who was their natural

daughter and the Doans family, the brothers family of MRS BLY to come to the United States in Feb of 1985.

6. From the outset Ngoc and the Doan family was extremely disruptive tothe Bly family causing not only financial but Mr. By stress so much that Mr. Bly became sick in mid November of Pneumonia and bronchitis and Mrs. Bly On or About Dec 7 1985 was stricken with severe stomach pains and was rushed to Howard County Hospital where she underwent Emergency surgery for a perforated ulcer. On Information Mr. Blys Heart had stopped temporarily during the surgery.

7. While Mrs Bly was in the Hospital, Mr. Bly tried to set rules in his house and stop the abuse of his family by Ngoc, and the Doans. Mr. Bly as well as Mrs Bly (MR BLY KNEW I could not live on with this abuse. When Mr. Bly

was told to go to, they could do what they wanted too, Mr. Bly ordered the Doans to move out and to take Ngoc with them. The Doans and Ngoc called the police and stated that the Blys had abused them. This, they thought, would put Mr Bly out of the house where they could be the boss. They found out it did not work and that they would have to stop abuse of the Blys and would have rules to stay with the Blys. Ngoc and the Doans moved out with the help of the Police, D.S.S. and the States Attorney for Howard County, Md. The Blys heard Ngoc laugh that she was not their daughter and has found evidence to that since. That Ngoc Hong Doan had probably died in 1975.

8. Mr Bly was arrested March 21, 1986 for the crimes of Child abuse, assault and battery, fourth degree sex offence.

9. At the time of Mr Blys arrest,

the Bly family was assaulted by Friends of Mr. Richard Kinlain. Mr. Kinlein was the former States Attorney for Howard County Md and these friends of Mr Kinlein that did the abuse of the Bly worked with Mr Kinlein in abuse cases. The D.S.S. States Attorney, The Howard County Police.

1Ø. The Blys hired an attorney in law that they had found in the Yellow pages who said in the ad that she did criminal law cases. After 4 months of abuse by this lawyer to plea Bargain even if Mr. Bly was innocent, Mr. Bly fired her. She admitted lter she always pled never ad gone to court trials.

11. The Blys then hired Mr. Kinlein as our attorney. This the Blys would like to inform you of actions taken against Mr. Bly on Oct 1, 1986 at a circuit court hearing. State vs. Raymond J. Bly, by his attorney Mr. Richard

Kinlein. Mr Kinlein after 4 months time to prepare Mr. Blys case and set up Mr. Blys defense, did nothing. He refused to discuss the case with the Blys saying he had only 2 questions for Mr. Bly. If Mr. Bly was guilty and if Mr. Bly wanted a jury trial. The Blys answered him that Mr. Bly was not guilty and that Mr. Bly wanted a jury trial and that was all he wanted He said he did not need to talk to any of the Blys witnesses also. Mr. Kinlein went on to say that the Blys should leave him alone until court. That he knew the whole case from the states side and knew Mr. Bly was innocent. Mr. Bly tried on a few occasions to set up meetings between him and the Blys witnesses. He said he would win and Mr. Bly would get off and would get his jury trial and lawsuit. He also stated this to the Bly family. Also everytimewe made a payment on our bill to Mr. Kinlein he

would say don't worry. We will win and Mr Bly will have no arrest record. But to stop asking him, he is busy and doesn't have time to talk. That he's the lawyer and knows what he's doing. He doesn't need witnesses. Mr. Kinlein would ask how we were coming with our bill to him. That day in court the Bly family still brought 20 witnesses to help. The Blys tried to talk tohim and he refused. He said don't worry, everything would be ok He was talking tothe judge and States Attorney. The first case was Mr. Bly. He put Mr. Bly up on the standand started into Mr. Blywith questions like the prosecutor would. He broke Mr Bly down to cry in 2 minutes He made Mr. Bly state something in court that the State did not know and could prosecute Mr. Bly for. This was the fact that yes Mr. Bly had exposed himself to Ngoc. This was not told to Mr. Kinlein

to force Mr. Bly to tell in court. He told the judge Mr. Bly was crazy. HE SAID MR BLY WAS MENTALLY ILL due to serving in Vietnam. He tried to make Mr. Bly confess that he was guilty of wrong doing. He tried to make Mr. Bly confess things that Mr. Bly had not ever done. He tried to say that hugging your children good night is against the law. Mr Kinlein was so reckless with no disregard for the rights and safety of the Plaintiffs and it was done deliberately and were harmul and so offensive that the Plaintiffs sustained mental suffering, anguish, embarrassment, fright, and other damages. Mr. Kinlein also went on to try to show the court I was a very big danger to the people and I (Mr. Bly) wanted to blow up this court house so when the sherriffs took Mr. Bly out to jail they grab me with so much force that they hurt me and I was in pain

for 1 month then by Mr. Kinleins actions in court to prot4ect his friends and put Mr. Bly in jail he caused Mrs. Bly to be assaulted and battered also by the the sherriffs when she ran up to protect her husband. They revoke Mr. Blys personal recog bail, and put $25,ØØØ.ØØ on Mr. Bly. He told Mrs. Bly and children Blys they would be ok now and to not worry about Mr. Bly. Mr. Bly could not hurt them anymore. Mr. Bly was ok To go back to work Mrs. Bly and children ran the judge out of court and stop court for hours Mr. Bly was told in jail. Mr. Kinlein kept telling the Bly family that Mr. By would be going to a hospital. "Mr. Bly wasnot in jail". Mrs Bly said Mr. Bly is in jail and does not need a hospital. Mrs. Bly and family told Mr. Kinlein that Mr Bly is a good man, father, husband, and is not sick or guilty. Mr. Kinlein left Mr. Bly in

jailand did not tell the Blys that Mr. Bly could get out on bail. The Blys and friends found out without Mr. Kinlein help that Mr. Bly had bail and got Mr. Bly out. Mr Kinlein knew Mr. Bly would set in jail for months to get into Perkins State hospital, or until court. After Mr Bly got out of jail the Blys had a meeting with Mr Kinlein. At that meeting he advised Mr Bly that if Mr. Bly failed the evaluation at Perkins he could get Mr Bly off and that Mr Bly needed help. The Blys fired him. But of course the Blys couldn't because Mr Bly was declared insane. Mr. Bly tried to change his plea back to not guilty but of course Mr. Bly was unable . "Mr Bly was Insane". The Blys new attorney enter his appearance, but Mr. Bly was insane and could not get a new attorney. Mr. Kinlein refused to be fired. Mr. Bly went tohis evaluation at Perkins on

November 19, 1986. Perkins refused to give Mr. Bly an evaluation with his new attorney present.

The Blys tried for two months to get Mr. Kinlein off as the Blys attorney. He refused to stop being the Blys attorney until Mr Bly told him some law . That the court had ordered Mr. Kinlein to take and make Mr. Bly take the evaluation at Perkins not Mr. Bly. The court couldn't order Mr. Bly because Mr. Bly was insane. The Blys told his secretary that if he didn't remove himself that the Blys would tell the court anything that Mr. Bly thought would put him in jail. He finally quit that day after almost two months of trying to fire him.

Nr, Jubkeub was gured ti defebd Nr, /kt as tge Bly family wanted and that was inoocent of all charges and not because of mental illness. Mental illness was never discussed or was Mr. Blys days in

Vietnam. Mr. Kinlein even refused to talk to a Father Cammack that had counsel the Blys and Mr. Bly almost on a daily basis. Father Cammack told Mr. Kinlein that Mr Bly was innocent and was ery upset but not sick or a dnger to anyone.

fter everything that was done to the Blys before the Blys hired Mr Kinlein. The Blys did not trust anyone. Everyone told the Blys this is the best lawyer money could get. Put our trust in him, So We DID?????????????

Beore Mr Kinlein came into my case, Mr Bly had been lie about the Police, Social Services, and the Sttes Attorney. The Bly family was also abused by these people.

The people the Blys accused of these crimes were past friends of Mr Kinlein. He was the former States Attorney.

He took The Blys money and then did the States Attorney job, "put Mr Bly in

jail".

Some back groun d of my case is:

Yes I was depressed and paranoid some. Wouldn't you be??? The Blys were not mentall ill or was Mr. Bly mentall ill. Mr. Kinlein refused to call the Bly familys psychiatrist or minister that had counseled the Bly family for months. That stated in a letter to the Blys new attorney that in fact Mr Bly was suffering from anxiety and depression but was not mentally ill or a danger tohimself or others. And that the Bly family also showed these same symptoms.

I had never been arrested or even question by the police before for crimes except a false report by a sister that wanted to get Mr Bly, just work with the police through my REACT club.

Mrs Bly was on 6 kinds of medicines for six months after her operation and the doctor said she was not OK and that

Mrs Bly did not have to take medicine anymore for two months before Kinlein did this in court to Mr Bly. Now the doctor says Mrs Bly could die and that Mrs Blys ulcer is really bad again and put Mrs Bly back on medicine.

12. Mr Kinlein also baised the judge against Mr Bly in Mr Blys criminal court conviction of May 1, 1987. The Blys also knows now that Mr Kinlein is a friend and relative of the judge that sat on Mr Blys conviction.

13. The statement of facts of the criminal case is enclosed in the New trial motion inclosed at the end. My law suit against the friends of Mr. Kinlein is also inclosed.

14. AS a proximate result of the acts and omissions complained of herein, each of the plaintiffs suffered, and was made by gthe defendant to suffer, great humiliation, anxiety and severe emotion

distress and great financial cost and distress.

COUNT 1

(ASSAULT AND BATTERY)

15. By not preparing a defense or questioning witness as alleged herein. By putting Mr. Bly in jail. By lying tothe Bly family many times saying he was going to defend Mr. Bly with a jury trial as alleged herein. By yelling at Mr Bly in his office and breaking down not only Mr. Blys mental health but alsothe Blys family's mental health.

COUNT 2

(FRAUD AND EMBEZZLEMENT)

By taking of money for a service and not doing the service but does the opposite as alleged herein. By telling the Blys many times tht he would defend Mr. Bly each time he receive a payment of his bill.

(COUNT 3)

(Malpractice)

By not looking into or talking to defense witnesses or preparing a just defense that the Blys had asked for and he stated he could do for the Blys as alleged herein.

COUNT 4

(Unprofessional conduct)

By not following the code of pro res. or cannon on how todefend a defendant in a crminla case as alleged herein.

COUNT 5

(Conflict of interest)

By not revealing his relationship with the judge or other county officers that the Blys had accused of crimes against them as alleged herein.

COUNT 6

(Violation of Plaintiffs rights of liberty, privacy, and famiy integrity)

By having Mr Bly state in court something that could convince the court of another

crime. By having Mr. Bly put in jail against the Blys family will. By telling the public in court that the Bly familyis sick. By trying to destroy the Bly family's marriage as alleged herein.

COUNT 7

(Intentional infliction upon plaintiffs of severe emtotional distress) By listening to a sister of Mr Bly of his mental state instead of conferrig with doctors or Mr. Blys minister By passing medical judgment on Mr Bly without a license as a doctor. By doing so, Mr. Kinlein did in fact cause all the plaintifs great emotional distress as alleged herein.

COUNT 8

(Disclosing Confidential Information) By putting Mr. Bly on the stand, abusing him and putting leading questions tohim to make him confess. He did only make Mr. Bly confess one item that was bad,

because that is the only thing Mr Bly had done Mr Bly was not charged with it and the State didn't know of it as alleged herein.

COUNT 9

(Breach of contract)

By not forfilling the contract of defense that both the defendant Mr Bly had stated or for what Mrs Bly had hired him for.

D. Relief prayed for All countS.

Wherefore, Plaintiffs pray the following reief:

15 For the wrong complaint of in Counts 1, 6, 7, and 9 an award to each of the plaintiffs for each count of compensatory damages of $25,000.00 against the defendant and an award of punitive damages of $75,000.00 against the defendant.

16. For the wrong complaint of in counts 2, 3, 4, 5, and 8. An award to plaintiffs Raymond J. Bly and Tieng D.

Bly an award of compensatory damages of $1ØØ.ØØØ.ØØ and an award for punitive damages of $1ØØ,ØØØ.ØØgainst the defendnt.

17. For all counts, recovery by plaintiffs of the cost of the instant litigation.

18. Such other and futher relief as this court may deem appropriate and just.

RAYMOND JEAGER BLY

Tieng D. Bly

8Ø87 Washington Blvd

Jessup, Md 2Ø794

(3Ø1) 799-3516

WE HEREBY AFFIRM under the penalties of perjury that the foregoing sttements are true and correct to the best of our knowledge, information and belief.

RAYMOND JEAGER BLY DATE

TIENG DOAN BLY DATE

LINDA TIENG BLY DATE

CURTIS RAYMOND BLY DATE

CHRISTINA TIENG BLY DATE

SIGN BYA PARENT

RAYMOND J. BLY, et al

PLAINTIFF

8087 Washington Blvd.

Jessup, Md 20794

301-799-3516